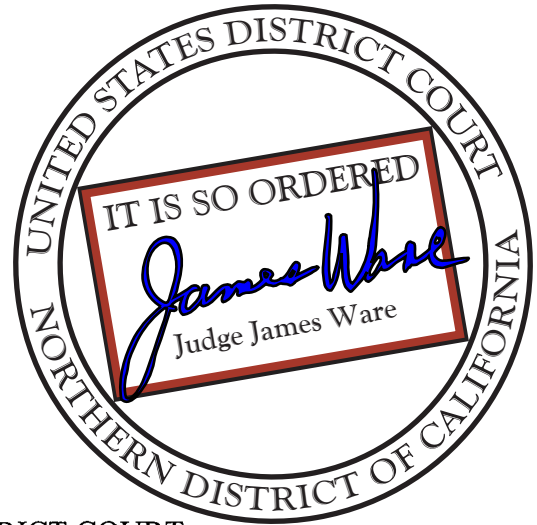


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CALPINE CORPORATION



UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

PLUMBERS, PIPE AND REFRIGERATION
FITTERS, LOCAL UNION 409,

Plaintiff,

vs.

CALPINE CORP., PASTORIA ENERGY
FACILITY, LLC

Defendant.

Case No. C-04-5111-JW¹

**STIPULATION OF DISMISSAL WITH
PREJUDICE AND [PROPOSED] ORDER**

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 428,
AFL-CIO,

Plaintiff,

vs.

CALPINE CORP., PASTORIA ENERGY
FACILITY, LLC

Defendant.

Case No. C-04-4050-JW

**STIPULATION OF DISMISSAL WITH
PREJUDICE AND [PROPOSED] ORDER**

¹ Cases C-04-5111-JW and C-04-4050-JW are related cases.

Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the parties hereby stipulate that each of the above-captioned actions should be dismissed with prejudice as to Defendant Pastoria Energy Facility, LLC. The parties also hereby stipulate that the Court's dismissal of former defendant and non-party Calpine Corporation should be modified so that the dismissal is with prejudice.²

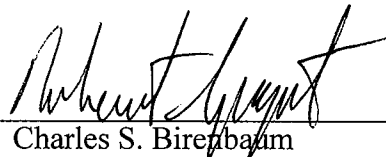
IT IS SO STIPULATED.

Respectfully submitted,

Dated: May 23, 2008

WINSTON & STRAWN LLP

By


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Jeffrey S. Bosley
Robert Spagat

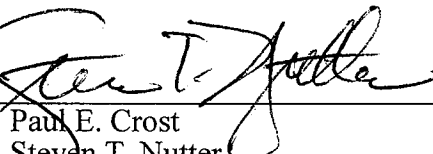
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Attorneys for
Non-Party Calpine Corporation

Dated: May 19, 2008

REICH, ADELL, CROST & CVITAN

By


Paul E. Crost
Steven T. Nutter

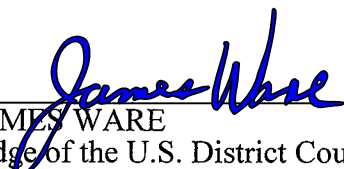
Attorneys for Plaintiffs
International Brotherhood of Electrical
Workers, Local 428, AFL-CIO and
Plumbers, Pipe and Refrigeration Fitters,
Local Union 409

² As the Court will recall, because "Plaintiffs proffered at oral arguments [their] willingness to dismiss Calpine [Corporation] from the current litigation," their claims against Calpine were "dismissed without prejudice." See No. 04-4050, Order Granting Plaintiffs' Motion to Compel Arbitration (Doc. 32) at 2:5-7; No. 04-5111, Order Granting Plaintiffs' Motion to Compel Arbitration (Doc. 36) at 2:5-7.

1 IT IS SO ORDERED.

2 The Clerk shall close both case files.

3 Dated : June 2, 2008


JAMES WARE
Judge of the U.S. District Court

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